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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,162	02/03/2004	Jurgen Morton-Finger	22793	1883

535 7590 06/21/2005

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EXAMINER

EDWARDS, NEWTON O

ART UNIT PAPER NUMBER

1774

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/772,162	Applicant(s) MORTON-FINGER, JURGEN	
	Examiner N Edwards	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 12 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Handwritten initials/signature

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The new drawing Fig 4 dated 5/13/05 is approved.

Applicant's arguments filed 5/13/05 have been fully considered but they are not persuasive.

Applicant urges that 1) a monofilament is defined by an undated Dictionary of plastics is "a single filament of indefinite length".

A monofilament is a textile. According to a Dictionary of fiber Textile Technology a monofilament is "any single filament of manufactured fiber." It further states, a monofilament can be used for textile, such as hosiery (definite length) or sewing thread (continuous length) or bristles (definite length). This shows a monofilament is generic to staple length fiber(s) as well as continuous length fiber(s) and can be made by any method of manufacture. It is noted that applicant's specification is silent to the meaning of monofilament. Also the claims are not amended to be limited to only "continuous" monofilaments.

Applicant urges that 2) the reference does not teach a monofilament formed in a single process step from a single spinning orifice as claimed by claim 1.

The above renders the claim a product-by-process claim. Thus the invention defined by a product-by-process claim is a product and not a process. In re Bridgeford, 357 F.2d 679. Therefore, the product defined by claim is a multi-layer monofilament consisting of a first plastic layer bonded to a second plastic layer which is bonded to a third plastic layer. The foregoing product is taught by Tanka and Rasmussen. The foregoing is a part of each rejection of record.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tanka for reasons of record.

Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rasmussen for reason of record.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanka or Rasmussen taken with Royosch (U.S. 3,616,130).

Tanka and Rasmussen each teach a three layered films which are made into fibers. Tanka and Rasmussen teach all of the claim invention except having an ethylene –vinyl acetate (EVA) as the second plastic layer.

Rogosch teaches it is well known art of multiplayer film textile that ethylene –vinyl acetate (EVA) copolymer is conventionally use as the second layer or inner layer with other polymeric layers in order to achieve strong bonding. See column 1, 3 and 4 of Rogosch.

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Therefore, it would have been obvious to one having ordinary skill in the art to combine the teaching of using EVA as the second layer in multiplayer films, as taught by Rogosch, in the three layer film fibers, as taught by Tanka or Rasmussen, in order to obtain strong bond between layers.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Primary Examiner Edwards at telephone number 571-272-1521.

Examiner Edwards/af


N. EDWARDS
PRIMARY EXAMINER

New Drawing
Approved
Examiner
B. W. Smith

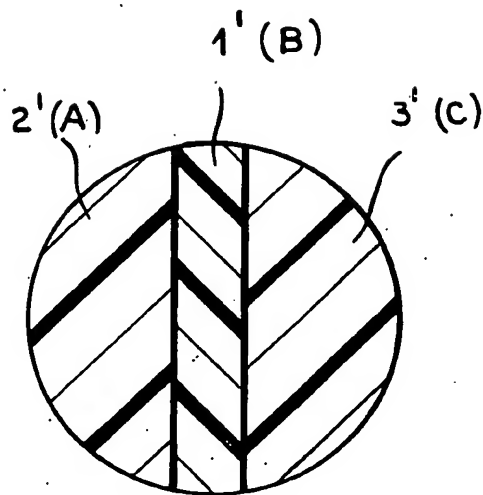


FIG.4